

A.J. ACOSTA - CUP EXTENSION APPEAL

CUP/M366-9N/APN 0313-343-04N

March 4, 2003 – Board of Supervisors Hearing

FINDINGS: CONDITIONAL USE PERMIT - EXTENSION OF TIME

Pursuant to Development Code Section 83.010350 (c), the same findings made in support of an original approval action must also be concurred with prior to approving an Extension of Time application. The following findings from the original approval can no longer be made in the affirmative. We recommend that the Board adopt the following findings that were made by the Planning Commission at its hearing on the Extension of Time application:

1. The site is not adequate in size and shape to accommodate the proposed use, because the appellant/applicant has failed to demonstrate during the last three years of operation that the approved uses can be conducted on the site in a neat, orderly, aesthetically pleasing and safe manner. The appellant/applicant has been unable or unwilling to maintain or to install all the necessary yards, open spaces, setbacks, walls and fences, parking areas, loading areas, landscaping and other required features to properly conduct operations on the site.
2. The site does not have adequate access from Highway 38 (North Shore Drive), because the appellant/applicant has failed to obtain the required encroachment permit from Caltrans and has not installed the required improvements to provide safe and adequate legal and physical access to the site.
3. The current uses continue to have adverse effects on abutting property or the permitted use thereof as appellant/applicant has failed to operate the uses in compliance with the conditions of approval or install and maintain sufficient buffering measures between the neighboring properties and the uses on the subject site. The site continues to be an unsightly operation that creates blight in the neighborhood. The appellant/applicant has expressed an inability to meet the original Conditions of Approval within a reasonable time frame. These conditions were placed on the project to mitigate adverse impacts.
4. The proposed use and manner of development are not consistent with the goals, policies, standards and maps of the General Plan and any applicable specific plan, because the proposed use is customarily relegated to the Regional Industrial (IR) land use district and the lawful conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. The project was conditioned to bring it into compliance with the development standards of the Community Industrial (IC) land use district. The applicant's inability to meet those conditions in a timely and responsive manner or do so in the foreseeable future, results in the project being inconsistent with the IC district and incompatible with the goals and policies of the General Plan, as follows:

Land Use: Policy LU-4(g) and (h) which requires industrial development to meet location and development standards that ensure compatibility with adjacent land uses and community character and to establish performance standards for industrial uses to control industrial odors, air pollution, noise pollution, vibrations, dust, hours of operation, exterior storage, and other nuisances. The conditions of approval and the identified mitigation measures for this project were required to mitigate these concerns. To date, the applicant has not complied with all conditions of approval, and has expressed an inability to do so within the foreseeable future.

Fire Safety. Material is being stored on site in a manner that directly violates the conditions of approval in a manner that has been determined to be unsafe and not in compliance with fire regulations. This conflicts with goals and policies related to Fire Safety.

5. The applicant has failed to comply within a reasonable time with the terms and conditions of the approved CUP, including, but not limited to, those conditions concerning fire protection, access, and implementation of mitigation measures. In addition, the applicant has continued his existing operations in violation of the performance criteria established by the CUP for such existing land uses.